

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1150 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AH YADAV

Versus

STATE OF GUJARAT

Appearance:

MR AD MITHANI for Petitioners

MS SIDDHI TALATI for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/09/97

ORAL JUDGMENT

Heard learned counsel for the parties.

2. The petitioners, in all 67 in number, filed this Special Civil Application and prayer has been made by them for declaring the Rules, viz. The Gujarat Police Department (Conditions of Service relating to Wireless Examination) Rules, 1982, as ultra vires of Articles 14 &

16 of the Constitution of India. Second prayer has been made to restrain the respondents from enforcing the aforesaid Rules. Third prayer has been made for direction to the respondents to frame Rules regarding quote for the purpose of promotion to the post of Police Wireless Inspector and Police Sub Inspector Wireless in accordance with the strength of different cadres. Fourth prayer has been made for directions to the respondents to make necessary provisions for promotion to the post of Radio Mechanic from amongst Wiremen Operators holding necessary qualifications.

3. The petitioners filed an application for draft amendment which appears to be dated March 1983 under which prayer has been made for setting aside the order dated 5th March 1983 under which the respondents No.5 to 8 were promoted to the post of Police Wireless Sub Inspectors. On this application, I do not find any order obtained by the petitioners, of this Court. So this amendment application, though filed in the year 1983, has not been pressed by the petitioners. Otherwise also, the proposed amendment is of no substance as those persons have been promoted in accordance with the Rules aforesaid, the validity of which has been challenged in this Special Civil Application, but later on that challenge has been given up by petitioners. Substantial prayers made by the petitioners in this Special Civil Application pertain to challenging the validity of the Rules aforesaid. So after giving up the substantial prayers, in fact nothing substantial survives in this Special Civil Application. However, so far as other prayer, i.e. the prayer for direction to the respondent-State to frame Rules regarding quote for the purpose of promotion to the post of Police Wireless Inspector and Police Sub Inspector Wireless, in accordance with strength of different cadres, is concerned, it is suffice to say that this Court cannot issue Writ of Mandamus to the respondents to frame the Rules in the manner as suggested. It is for the respondent-State to frame Rules and regulate service conditions of its employees. Similarly, the other prayers made are also of the same nature. It is prerogative of the respondent-State to frame the Rules for regulating promotions, recruitment and service conditions of its employees for which this Court cannot issue a Writ of Mandamus.

4. This writ petition is wholly misconceived and the same is therefore dismissed. Rule discharged. No order as to costs.

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(sunil)